Public Prosecutor v Chong Vui Hyen

HIGH COURT (TEMERLOH) — CRIMINAL TRIAL NO 45–08 OF 2005
AKHTAR TAHIR JC
24 MARCH 2009

Criminal Law — Dangerous drugs — Trafficking in heroin and monoacetylmorphine — Storage of drug exhibits — Proof — Incomplete entries — Failure to furnish sufficient details as to movement in and out of store — Whether sufficient evidence tendered on storage of drugs

Criminal Law — Dangerous Drugs Act 1952 — s 39B(1)(a) — Presumption of trafficking — Car raided almost immediately on arrival at parking lot — Whether premature raid — Whether sufficient to raise presumption of trafficking

Evidence — Expert evidence — Credibility — Whether experienced chemist without formal training regarded competent or expert — Analysis of dangerous drugs — Whether amount used for analysis grossly inadequate

Upon receiving an information with regard to a car with the registration No WER 5240, SP6 led a group of police men to the toll plaza at Lanchang. After waiting for 45 minutes, SP6 and his men spotted the said car arriving at the toll plaza and immediately approached the car. After identifying himself to the driver of the car, SP6 seized a packet which the accused was holding in his right hand. On opening the said packet, SP6 found white powdery substance believed to be drugs. The accused and the drugs were later handed to SP7, the investigating officer ('IO') of the case. The IO photographed the drugs and handed the drugs to the store for safe keeping and subsequently to the chemist at the Chemist Department. SP2, the chemist, who analysed the drugs confirmed the drugs were heroin and monoacetylmorphine with a weight of 10.33g and 7.05g, respectively. After the drugs were analysed they were placed in a sealed envelope. The IO collected the envelope together with the chemist report and kept them at the store until produced at the court. The defence raised the following issues: (a) that there was break in the chain of evidence as to the safe keeping of the drugs; (b) that a mere possession did not attract the presumption of trafficking; and (c) the competence of the chemist and the insufficiency in the amount of drug analysed.

Held, acquitting and discharging the accused of the charge:

(1) Although there appeared to be weaknesses in the keeping of the record at the police store it did not in any way affect the identity of the drugs as the markings made by both SP6 and SP7 were still discernable from the packet tendered in the court. The court was satisfied from the totality of the evidence and that the markings on the exhibits revealed that the drugs were the same as that found from the accused (see paras 12 & 15).

(2) There should be an indication that the accused had the intention to part with the packet of drugs to someone else. Merely holding the drugs does not convey the intention, more so when there are no people around for the drugs to be handed over (see para 21).

(3) The fact that the police raided the car in question almost immediately as it arrived at the parking lot did not give the police an opportunity to ascertain the real intention of the accused in parking his car at the toll plaza. The police should have allowed the accused to move towards more incriminating circumstances instead of rushing to raid the vehicle. This was a case of premature raid, insufficient to raise the presumption of trafficking (see para 22).

(4) The chemist had analysed only 1.3g of the total amount of 222g of powder which was handed to him. This amount was grossly inadequate as it represented less than 1% of the powder found. The law does not formulate the amount of drugs to be analysed apart from s 37(j) of the Dangerous Drugs Act 1952 which stipulates at least 10% of the amount should be analysed. Using s 37(j) as the bench mark, the court was of the opinion that at least 10% of the drugs should be analysed especially in a case where the difference in quantity of drugs determines a matter of life or death (see paras 30, 33 & 34).

[Bahasa Malaysia summary

Apabila mendapat maklumat berkenaan sebuah kereta bernombor pendaftaran WER 5240, SP6 mengetuai sepasukan polis ke plaza tol Lancang. Setelah menunggu selama 45 minit, SP6 dan pasukannya mengecam kereta tersebut yang tiba di plaza tol tersebut dan mendekatinya. Setelah memaklumkan identiti dirinya kepada pemandu kereta tersebut, SP6 kemudiannya merampas satu bungkusan yang berada dalam tangan kanan tertuduh. Apabila membuka bungkusan tersebut, SP6 mendapati serbuk putih yang dipercayai dadah. Tertuduh dan dadah tersebut diserahkan kepada SP7, pegawai penyiasat (IO) kes tersebut. IO mengambil gambar dadah tersebut dan menyerahkannya ke stor untuk disimpan dan kemudiannya dihantar kepada ahli kimia di Jabatan Kimia. SP2, ahli kimia yang

menganalisis dadah tersebut mengesahkan bahawa dadah tersebut merupakan heroin dan monoacetylmorphine yang masing-masing seberat 10.33g dan 7.05g. Setelah dadah tersebut dianalisis, dadah tersebut dimasukkan ke dalam sampul yang diperekatkan. IO mengambil sampul tersebut bersama-sama dengan laporan kimia dan menyimpannya di stor sehingga dibawa ke mahkamah. Pihak pembelaan membangkitkan isu-isu berikut: (a) rantaian keterangan putus dalam hal penyimpanan dadah tersebut; (b) bahawa milikan semata-mata tidak memberi anggapan pengedaran dadah; dan (c) kecekapan ahli kimia dan juga kekurangan berat dadah yang dianalisis.

Diputuskan, melepaskan dan membebaskan tertuduh terhadap pertuduhan:

(1) Walaupun ada menunjukkan bahawa wujudnya kelemahan dalam menyimpan rekod di stor polis, kelemahan itu tidak menggugat pengenalpastian dadah tersebut kerana tanda-tanda yang dibuat oleh SP6 dan SP7 masih boleh dibaca daripada bungkusan yang dikemukakan di mahkamah. Mahkamah berpuas hati dengan keseluruhan keterangan tersebut dan juga tanda-tanda pada ekshibit-ekshibit menunjukkan bahawa dadah tersebut merupakan dadah yang sama dijumpai daripada tertuduh (lihat perenggan 12 & 15).

(2) Seharusnya ada petanda bahawa tertuduh mempunyai niat memberikan dadah tersebut kepada orang lain. Semata-mata memegang dadah tersebut tidak menunjukkan niat, lebih-lebih lagi ketika itu tiada sesiapa pun dadah itu boleh diberikan (lihat perenggan 21).

(3) Fakta bahawa pihak polis menyerbu kereta tersebut dengan serta-merta ketika kereta tersebut sampai di tempat letak kereta tidak memberi peluang kepada polis untuk mengenal pasti niat tertuduh apabila dia meletak kereta di plaza tol tersebut. Pihak polis seharusnya membiarkan tertuduh bertindak dalam keadaan yang menunjukkan dia bersalah daripada terus menyerbu kenderaan tersebut. Kes ini merupakan kes serbuan terlalu awal, tidak mencukupi untuk membangkitkan anggapan mengedar (lihat perenggan 22).

(4) Ahli kimia hanya menganalisis sejumlah 1.3g daripada keseluruhan 222g serbuk yang diberikan kepadanya. Jumlah ini tidak mencukupi kerana hanya mewakili 1% daripada serbuk yang ditemui. Undang-undang tidak merumuskan jumlah dadah yang perlu dianalisis selain daripada s 37(j) Akta Dadah Berbahaya 1952 yang menetapkan sekurang-kurangnya 10% daripada jumlah yang ditemui harus dianalisis. Mengguna pakai s 37(j) sebagai tanda aras, mahkamah berpendapat bahawa sekurang-kurangnya 10% daripada jumlah dadah

A yang dijumpai harus dianalisis terutamanya dalam kes yang mana perbezaan jumlah dadah menentukan hidup atau mati seseorang (lihat perenggan 30, 33 & 34).]

Notes

B For a case on credibility, see 7(2) *Mallal's Digest* (4th Ed, 2006 Reissue) para 1437.

For cases on s 39B(1)(a) of the Dangerous Drugs Act 1952, see 4 *Mallal's Digest* (4th Ed, 2005 Reissue) paras 320–446.

For cases on trafficking in heroin and monoacetylmorphine, see 4 *Mallal's* C *Digest* (4th Ed, 2005 Reissue) paras 138–139.

Cases referred to

PP v Lin Lian Chen [1991] 1 MLJ 316, HC (refd)

PP v Nik Ahmad Aman bin Nik Mansor [2002] 5 MLJ 641, HC (folld)

D *PP v Samundee Devan a/l Muthu Krishnan* [2006] 4 MLJ 777; [2006] 3 CLJ 161, HC (refd)

Legislation referred to

Dangerous Drugs Act 1952 ss 37(j), 39B(1)(a), (2)

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Mohd Najmi bin Daud (Deputy Public Prosecutor, Attorney General's Chambers) for the prosecution.

Richard Bong (Bong & Co) for the accused.

F **Akhtar Tahir JC:**

THE CHARGE

[1] The charge against the accused is as follows:

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Bahawa kamu pada 24 Februari 2005 jam lebih kurang 5.45 petang bertempat di tempat letak kereta berhadapan pejabat bangunan tol Lanchang, di dalam daerah Temerloh, di dalam negeri Pahang Darul Makmur telah didapati mengedar dadah berbahaya iaitu sejumlah berat 17.38 gram (10.33 gram heroin dan 7.05 gram H monoacetylmorphines) dan dengan itu kamu telah melakukan suatu kesalahan di bawah seksyen 39B(1)(a) Akta Dadah Berbahaya, 1952 yang boleh dihukum di bawah seksyen 39B(2) Akta yang sama.

THE PROSECUTION'S CASE

I

[2] The prosecution called a total of nine witnesses to prove its case against the accused.

[3] The sum total of the prosecution's evidence was that SP6 ASP Azhar bin

Ahmad upon receiving information with regards to a car with the registration No WER 5240 led a group of police men to the toll plaza at Lanchang. After waiting for 45 minutes SP6 and his men spotted the said car arriving at the toll plaza. Upon seeing the car SP6 and his men immediately approached the car.

[4] SP6 identified himself to the driver of the car identified in the court as the accused. SP6 saw the accused holding a packet in his right hand. SP6 seized this packet and on opening the packet found white powdery substance believed to be drugs.

[5] The accused and the suspected drugs were taken to the police station whereby SP6 lodged an arrest report as well as marked the exhibit.

[6] The accused and the drugs were later handed to the investigating officer ('IO') of the case SP7 Chief Inspector Nik Amin Shah Nik Ahmad. The IO photographed the drugs and handed the drugs to the store for safe keeping. The drugs were then sent by the IO to the chemist at the chemist department.

[7] The chemist Khairol Hadi bin Hj Abdul Raof (SP2) who analysed the drugs confirmed the drugs were heroin and monoacetylmorphine with a weight of 10.33g and 7.05g respectively. After drugs were analysed they were placed in a sealed envelope. The IO later collected the envelope together with the chemist report. The drugs were kept at the store until production in court at the trial.

[8] The defence did not seriously challenge the fact that the drug was in the possession of the accused at the material time. The court also found the evidence to be sufficient to prove that at the material time the drugs were under the possession of the accused.

[9] However the defence raised *three issues* which I considered important to address to come to a determination of this case.

IDENTITY OF THE DRUGS

[10] The *first issue* raised was the identity of the drugs which the defence alleged was in doubt as there was break in the chain of evidence as to the safe keeping of the drugs. According to the testimony of the IO the drugs were kept at the store in the police station. Every item kept in the store was registered in a record book which kept entries of items kept by noting amongst others the brief description of the item kept.

[11] It was the defence contention that there was no mention in the book of an entry of an envelope marked *C* contrary to the evidence of the IO that he had kept the packet of drug in an envelope marked C. Further it was the contention of the defence that the entries were not complete and did not give enough details as to the movement in and out of the store for example the case number as well as the particulars of the court.

[12] In my opinion although there appeared to be weaknesses in the keeping of the record at the police store it did not any way affect the identity of the drugs as the markings made by both SP6 and SP7 were still discernable from the packet tendered in the court.

[13] The defence also further contended that the entries in the records were tampered with as when a page of the record was earlier tendered and marked as ID 10 it had different entries on the same page later tendered as P14.

[14] The storekeeper SP3 L/Kpl Ghazali bin Mohd Noh admitted having altered the entries as to date and case number.

[15] I concluded there appeared to be and in fact it was confirmed by the storekeeper himself that there was alteration nevertheless in my opinion this alteration had no significant effect on the identity of the drugs tendered. I was satisfied from the totality of evidence and the markings on the exhibits that the drugs were the same as that found from the accused.

PRESUMPTION OF TRAFFICKING

[16] The *second issue* raised by the defence was that a mere possession did not attract the presumption of trafficking. The defence relied on the case of *Public Prosecutor v Nik Ahmad Aman bin Nik Mansor* [2002] 5 MLJ 641 at p 650 where Kang Hwee Gee J said this:

> But even assuming that the prosecution has successfully made out a case of possession, trafficking in the context of the instant case cannot be proved by mere passive possession alone.
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> A cursory reading of the definition of 'trafficking' in s 2 of the Act tends to convey the impression that trafficking may be proved only by adducing evidence that the accused had done any of the acts mentioned in the section, that is to say, manufacturing, importing, exporting, keeping, concealing, buying, selling, giving, receiving, storing, administering, transporting, carrying, sending, delivering, procuring, supplying or distributing the drug. But as Augustine Paul J said in *Public Prosecutor v Hairul Din bin Zainal Abidin* [2001] 6 MLJ 146, the definition of 'trafficking' contemplates acts that go beyond mere or passive possession of dangerous drugs.

As indicated in the judgment, that proposition was first mooted in the judgment of the Privy Council on appeal from the Court of Appeal Singapore in *Ong Ah Chuan v Public Prosecutor* [1981] 1 MLJ 64, wherein the judicial committee had to decide on the meaning of 'trafficking' under the Misuse of Drugs Act 1973 of Singapore. It was even more emphatically defined under section 2 to mean 'sell, give, administer, transport, send, deliver or distribute'.

Speaking for the judicial committee, this was what Lord Diplock said:

> To 'traffic' a controlled drug so as to constitute the offence of trafficking under s 3 involves something more than passive possession or self-administration of the drug; it involves doing or offering to do an overt act of one or other of the kinds specified in para (a) of the definition of 'traffic' and 'trafficking' in s 2. Even apart from any statutory definition, the ordinary meaning of the verb 'to traffic', in the particular context of trafficking in goods of any kind, imports the existence, either in fact or in contemplation, of at least two parties: a supplier and a person to whom the goods are to be supplied. This concept, involving transfer of possession, is reflected in the statutory definition itself. Of the seven verbs used to describe the various kinds of overt acts which constitute trafficking, 'transport' is sandwiched between 'sell, give, administer' which precedes it and 'send, deliver or distribute' which follows it.
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> All of these other verbs refer to various ways in which a supplier or distributor, who has drugs in his possession, may transfer possession of them to some other person. 'Transport', although it must involve possession of the drugs by the person who transports them, is the only member of the heptad of verbs that is not inconsistent with the retention of possession of the drugs by him after their transport. It must mean moving the drugs from one place to another; it may mean moving them also to another person, but it need not do so. Whether it bears the wider or the narrower meaning depends upon the context in which the verb appears. In Their Lordship's view, the immediate context of the verb 'transport', to which attention has been drawn, attracts the maxim *noscitur a sociis*. This, and the fact that it appears in the definition of the verb to 'traffic', of which the natural meaning in the context of trafficking in goods involves dealings between two parties at least, and that the evident purpose of the Act is to distinguish between dealers in drugs and the unfortunate addicts who are their victims, all combine to make it clear that 'transport' is not used in the sense of mere conveying or carrying or moving from one place to another, but in the sense of doing so to promote the distribution of the drug to another. Supplying or distributing addictive drugs to others is the evil against which s 3 with its draconian penalties is directed.

[17] At p 652 the learned judge said as follows:

> I am persuaded by the reasoning in *Ong Ah Chuan* that to prove that the accused was trafficking in the context of the instant case, it would still be necessary to prove that he transferred, or at least intended to transfer, possession (or at least custody and control) of the drug to another party. Had it been the intention of the legislature to make the mere acts of transporting, carrying, sending, delivering,

A procuring, supplying or distributing the drug an offence punishable by death, it would have said so directly in clear language avoiding altogether the word 'trafficking'.

I am therefore bound to find that the mere act of transporting, carrying, sending, delivering, procuring, supplying or distributing by the accused in the instant case, (acts which he could conceivably be perceived to do as the driver of the car under the circumstances) would not be enough to constitute an act of trafficking in the absence of any evidence that the drug was to be transferred or conveyed to another party. The fact that the Ford Lynx had been observed to have parked for that very brief moment behind the Honda Accord without more, is in my view insufficient to convey any such intention on the part of the accused.

[18] In this case whether there was mere possession or a further intention to 'traffic' by the accused depended on the evidence of SP6 and SP9 a member of the raiding party as both were present at the place of the incident.

[19] The defence contended there was a contradiction of evidence between SP6 and SP9 of the presence of people and other vehicles at the place where the accused was detained. The officer who led the raid SP6 said that there were no other people apart from the accused and the police team or any other vehicle apart from the police car the accused car and a Pajero, whereas SP9 said there were other people and cars in that area.

[20] Under normal circumstances the presence of other people at the scene might not be significant but it becomes important to determine the intention of the accused especially on the question whether presumption of trafficking arises.

[21] On this issue I agree with the decision of Kang Hwee Gee J that there should be an indication that the accused had the intention to part with the packet of drugs to someone else. Mere holding the drugs in the hand does not convey the intention more so when there are no people around for the drug to be handed over.

[22] In this case even if there were other people around, the fact that the police raided the car in question almost immediately as it arrived at the parking lot did not give the police an opportunity to ascertain the real intention of the accused in parking his car at the toll plaza. The police should have allowed the accused to more incriminating circumstances instead of rushing to raid the vehicle. To me this was a case of premature raid insufficient to raise the presumption of trafficking.

THE CHEMIST EVIDENCE

[23] However to me it is the *third issue* raised by the defence which sealed

the fate of the case. The third issue raised was the evidence of the chemist. The defence raised two weaknesses in the testimony of the chemist. The first was the competence of the chemist and second was in the insufficiency in the amount of drug analysed.

[24] On the competence of the chemist Mohtar Abdullah J in the case of *Public Prosecutor v Lin Lian Chen* [1991] 1 MLJ 316 at p 317 said this:

> In other words the prosecution should first establish the expertise of the witness. The opinion which he is asked to give must relate to a matter concerning which his special knowledge will assist the court. The expert may not give an opinion on matters outside the field of his expertise.
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> Although the court takes judicial notice of the common fact that a government chemist is called upon to examine and analyse exhibits sent to the chemistry department by the police and other law enforcement agencies, it cannot by the mere fact that the witness is a government chemist of some standing, hold that the witness in question is an expert in the particular field of expertise in the case before it. A Bachelor of Science (Honours) degree majoring in chemistry, does not necessarily imply that the witness concerned has an expert knowledge of heroin — nor does 13 years experience in the chemistry department similarly clothe the witness with the expertise in the analysis of heroin!

[25] It was the testimony of the chemist in this case that he had no formal training on analysing of drugs and what ever he had learnt was from the on job training. He further testified that he had been analysing drugs from the year 1994.

[26] In my opinion there is no necessity for a chemist to have formal training to be regarded as competent or as an expert. To me on the job training is equally important in imbibing the necessary knowledge and skill. However for a judge to conclude on the competence of a witness all the necessary facts must be made available to the court.

[27] In this case there was just a bare statement from the chemist that he had been analysing drugs since 1994. No further details were elicited from the witness for instance to the number of cases of drugs analysed by the witness since 1994. The witness might have been analysing drugs for a number of years but if he has analysed only a very small number of cases he could not be regarded as having the necessary skills and knowledge.

[28] The chemist also testified that he had given evidence in court on a number of occasion but again he did not say the nature of cases he had given evidence for. From his testimony it seems to suggest that he had only attended courses in relation to rape, murder and firearms cases and there is a possibility that he had only testified for such cases.

A **[29]** From the facts it was unsafe for me to conclude that the witness possessed the necessary skills and knowledge to be regarded as an expert or at least a competent chemist for analysis of drugs.

B **[30]** The amount of drugs analysed by the chemist enhanced my belief that the chemist was incompetent. The chemist had testified that he had analysed only 1.3g of the total amount of 222g of powder which was handed to him. In cross-examination he maintained that this was a sufficient amount for analysis.

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[31] The court cannot just accept the expert's testimony when he says the amount is sufficient without further explanation. In this case the prosecution did not deem it necessary to ask further during re-examination the reasons for the chemist saying the amount was sufficient. It is for the court to determine
D the accuracy and sufficiency of the test conducted by the chemist.

[32] On this point I would like to quote from the case of *Public Prosecutor v Samundee Devan Muthu Krishnan* [2006] 4 MLJ 777; [2006] 3 CLJ 161
E (HC), where at pp 786–787 (MLJ); pp 171–173 (CLJ) Hishamuddin Yunus J said as follows:

> The learned Deputy Public Prosecutor, Encik Azhar Iruan bin Mohd Ariffin, however, argued that the court was bound by the opinion of the expert, the
F government chemist, on the question of the adequacy of the sample. The learned DPP referred to *Gunalan a/l Ramachandran & Ors v Public Prosecutor* [2004] 4 MLJ 489; [2004] 4 CLJ 551. In that case, Abdul Hamid Mohamad JCA (as he then was) delivering the majority judgment of the Court of Appeal said (at pp 515–516 (MLJ), pp 577–578 (CLJ)):
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> > Clearly, the court did not lay down the rule that 10% of the total weight of the plant material must be taken as sample for the purpose of the tests. However, in the circumstances of that particular case the amount taken was found to be adequate by the court. So, I do not think that it is correct to say that the case laid down the principle that at least 10% of the total weight must be taken as
> H sample for the purpose of carrying out the tests. Indeed, I do not think that that case laid down any general principle. The decision was confined to the circumstances of the case and, as stressed by the court, what would be an adequate quantity would depend on the particular circumstances of the case and, as stressed by the court, what would be an adequate quantity would depend on
> I the particular circumstances of each case. Even then, the question is: In the absence of a specific provision of the law, who is to determine what is the adequate quantity that should be taken as sample (s) for the purpose of carrying out the tests. The court or the chemist? Who is the expert? Who carries out the test? The answer must be the chemist.

With the greatest respect, whilst I agree that the Supreme Court in Leong Boon Huat did not lay down any '10% principle', I am, however, unable to share the view, as expressed above by Abdul Hamid JCA, that the Supreme Court in that case did not lay down any general principle at all. In my opinion the following principles can be abstracted from the judgment of the Supreme Court:

(1) A chemist analysing a substance to determine whether it contains any dangerous drug must carry out the analysis based on an adequate sample.

(2) Whether or not a sample used by the chemist for the purpose of the analysis is adequate is for the court to determine.

(3) Whether or not the quantity of the sample is adequate has to be determined from (to quote the Supreme Court) 'the particular circumstances of each case'.

(4) Where the court, after having given due consideration to the particular circumstances of the case, including the adequacy of the sample taken for analysis, is left in doubt as to whether the accused has committed an offence in a lower or higher degree of seriousness, the court should make a finding in the lower degree, particularly where a finding in a higher degree will give rise to a mandatory sentence of death.

I do of course accept that a court of law must give due weight to the evidence of an expert witness such as a chemist especially when the evidence is not disputed by another expert. Indeed, by the words 'the particular circumstances of each case' the Supreme Court must have meant that the opinion of the chemist must also, besides other factors, be seriously considered before a decision is made. But it is trite law that the chemist (or any expert for that matter) does not have the final say. It is the judge who makes the final determination. True, the judge is not an expert in this field. But he is not all that helpless. He has his general knowledge to rely on. He has his experience in hearing many drug trafficking cases. He is familiar with all the various tests normally carried out by the chemist when analysing a given substance to detect the presence of drugs, and if present to determine the nature and the weight of the same. He has his common sense, and his sense of justice and fairness, to guide him. An opinion of an expert is just an opinion. It is not conclusive. I must stress here that in the present case I am not rejecting outright the opinion of the chemist. I respect and accept the opinion of the chemist as to the nature of the drugs, that is to say, the substance contained heroin and monoacetylmorphines; but my only reservation is that I had some doubts as to accuracy of his analysis regarding the quantity of the drug.

[33] To me the amount analysed in this case was grossly inadequate as it represented less than 1% of the powder found. To compound matters only a small percentage of this 1.3g was found to contain heroin and morphine. The

law does not formulate the amount of drugs to be analysed apart from s 37(j) which stipulates at least 10% of the amount should be analysed.

[34] I am aware that this section has no application to the present case but it can be gleaned from the provision that it was the intention of the law that a sufficient and a minimum quantity of drug be used for analysis. Using this provision as a bench mark I would think that at least 10% of the drugs should be analysed especially in a case where the difference in quantity of drugs determines a matter of life or death.

[35] Further the chemist testified in this case of the amount analysed 4.66% was heroin and 3.18% was monoacetylmorphine. He then said according to his calculation the total weight of the drug was as 10.33g heroin and 7.05g monoacetylmorphines. What his calculations were leading to this amount was not elaborated upon. The court was therefore left with the task of guessing what the calculation was.

FINAL VERDICT

[36] For the reasons stated above it is my finding that the prosecution has failed to prove a prima facie case against the accused and the accused is therefore acquitted and discharged of the charge against him.

Accused acquitted and discharged of the charge.

Reported by Ashgar Ali Ali Mohamed